

**State of Wisconsin  
Department of Workforce Development**

**NOTICE OF PUBLIC HEARING**

**Rule Relating to Unemployment Insurance Work Registration,  
Work Search and Benefit Claiming Procedures**

**Chs. DWD 126, 127 and 129, Wis. Admin. Code**

The Wisconsin Department of Workforce Development (DWD) announces that it will hold joint public hearings on an emergency rule and permanent rule relating to unemployment insurance work registration, work search and benefit claiming procedures.

DWD will hold a public hearing at the three locations indicated below on November 4, 2013, from 11:00 a.m. to 2:00 p.m. Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing. Written comments will be accepted until Friday, November 8, 2013. Comments may be sent to the Division of Unemployment Insurance at the address below, or to [janell.knutson@dwd.wi.gov](mailto:janell.knutson@dwd.wi.gov), or to <http://adminrules.wisconsin.gov>.

You can obtain a free copy of the emergency rule, hearing draft rule and related documents including the economic impact analysis by contacting the Wisconsin Department of Workforce Development, Division of Unemployment Insurance, Bureau of Legal Affairs, 201 E. Washington Avenue, Madison, WI 53703. You can also obtain a copy by calling (608) 266-1639 or by emailing [janell.knutson@dwd.wi.gov](mailto:janell.knutson@dwd.wi.gov). Copies will also be available at the hearings. To view the emergency rule and hearing draft rule online, go to: <http://adminrules.wisconsin.gov>.

Comments or concerns relating to small business may also be addressed to DWD's small business regulatory coordinator Howard Bernstein at the address above, or by email to [howard.bernstein@dwd.wi.gov](mailto:howard.bernstein@dwd.wi.gov), or by telephone at (608) 266-1756.

Visitors to the GEF 1 building are requested to enter through the left East Washington Avenue door and register with the customer service desk. The entrance is accessible via a ramp from the corner of Webster Street and East Washington Avenue. If you have special needs or circumstances regarding communication or accessibility at the hearing, please call (608) 266-9427 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

**Hearing Date and Locations:**

**Monday, November 4, 2013**

11:00 a.m. – 2:00 p.m.

Milwaukee State Office Building  
819 North 6<sup>th</sup> Street, Room 312  
Milwaukee, WI 53203

Fox Valley Hearing Office  
54 Park Place, Suite 800, Room 2  
Appleton, WI 54914

Department of Workforce Development  
Division of Unemployment Insurance  
201 East Washington Avenue, Room H305  
Madison, WI 53703

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**Analysis Prepared by the Department of  
Workforce Development**

***Statutes Interpreted***

Statutes Interpreted: Ch. 108, Stats.

***Statutory Authority***

Statutory Authority: ss. 108.04, 108.08, 108.09, and 108.14, Stats.

***Explanation of Statutory Authority***

DWD has specific and general authority to establish rules interpreting and clarifying provisions of ch. 108, Stats., unemployment insurance and reserves. DWD has general authority for promulgating rules with respect to ch. 108, Stats., under s. 108.14 (2), Stats. 2013 Wisconsin Act 20 amended s. 108.04 (2) (a) 2., Stats., to provide that unemployment insurance claimants registration for work shall be done as directed by DWD. s. 108.04 (2) (b) provides DWD may prescribe rules that unemployment insurance claimants must follow to register work and search for work and may by general rule waive these requirements under certain stated conditions. Under s. 108.08 (1), Stats., in order to receive benefits, claimants shall give notice to DWD with respect to the claimants' unemployment. The statute provides that the method used by claimants to provide notice of their unemployment shall be prescribed by rule of DWD. Under s. 108.09 (1), Stats., claims for benefits shall be filed pursuant to rules prescribed by DWD.

***Related Statutes or Rules***

Chapter 108, Stats., governs the state's unemployment insurance system. Section 108.04 provides the primary eligibility requirements an unemployed person must satisfy in order to qualify for benefits. Section 108.04 (2), Stats., provides a claimant is eligible for benefits as to any given week only if the individual is able to work and available for work during that week,

reasonable search for suitable work during that week. Moreover, it provides that a claimant must make available information or job application materials that are requested by DWD.

### ***Plain Language Analysis***

The permanent and emergency rules modify existing rules by simplifying and clarifying the intent of the administrative code provisions surrounding registration and work search requirements for an unemployment insurance claimant. Also emergency rule modification enables DWD to be able to adapt work registration and work search requirements as advances in technology make changes possible and necessary. Moreover, emergency rule changes facilitate DWD's ability to audit the work search efforts of unemployment insurance claimants as required by the newly enacted statutory provision s. 108.14 (20), Stats., that was created by 2013 Wisconsin Act 36. In addition, the existing administrative rules provide for waivers from the work search requirement. The permanent and emergency rule amendments decrease and narrow the remaining waivers.

The permanent and emergency rule changes will streamline the ability of DWD to ensure that individuals receiving unemployment insurance benefits are actively seeking work to become reemployed. This emergency rule modification will also strengthen DWD's objective that those receiving unemployment insurance are engaging in activities that constitute a reasonable effort to obtain employment.

The permanent and emergency rule amendments clarify that DWD has the authority to request information from claimants to assist them in finding employment. More specifically, the amendments to ch. DWD 129 grant DWD the flexibility to implement improvements with respect to the claims filing procedures. DWD also plans to adopt a permanent rule to revise chs. DWD 126, 127 and 129.

### ***Summary of, and comparison with, existing or proposed federal statutes and regulations***

Unemployment insurance was initiated on a national basis in the United States as Title III and Title IX of the Social Security Act of 1935 and is a Federal-State coordinated program. Each state administers its own program within national guidelines promulgated under federal law. As a condition of a state receiving its unemployment compensation administrative grant, 42 USC 503 (a) provides that the Secretary of Labor must find that the law of the state includes certain requirements. Specifically, 42 USC 503 (a) (12) provides that state laws must have as a condition of eligibility for unemployment insurance that claimants must be able to work, available to work, and actively seeking work. Moreover, 42 USC 503 (a) (10) provides that state laws must require that if claimants have been referred for reemployment services or similar services, to remain eligible for unemployment insurance benefits claimants must complete such services or there must be justifiable cause for the claimants failing to participate in such services.

### *Comparison with rules in adjacent states*

As the Department of Labor's Comparison of State UI Laws states: "[i]n addition to registration for work at a local employment office, all states... , whether by law or practice, require that a worker be actively seeking work or making a reasonable effort to obtain work." The amendments to the rules bring Wisconsin's rules more in line with neighboring states' initiatives to facilitate unemployment insurance claimants' ability to find employment.

#### **Benefit Claiming Procedure**

<b>Illinois</b>	Each claimant shall file his or her claim by telephone. The only exception is if the claimant files his or her claim by mail. To file a claim by mail the claimant must: speak neither English nor Spanish; be hearing impaired; or have no reasonable access to a touch-tone telephone. <b>(56 IL Adm. Code 2720.112)</b>
<b>Indiana</b>	A claimant must report on their job search on a weekly basis via submission of the online claim form, or in any other manner as required by the department. <b>(646 IN 5-9-4 Administrative Code)</b> A claimant is not eligible for benefits in any week unless he or she has filed a claim for benefits and reports to the department each week that he or she continues to meet all eligibility requirements. A claimant's claim for benefits, and weekly report to the department, must be filed in the form and manner prescribed by the department. <b>(646 IN 5-9-2 Administrative Code)</b>
<b>Iowa</b>	An individual may file an initial claim for unemployment benefits by telephone, in person or other means prescribed by the department or may call the service center during regular business hours. Claims filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed, but must register for work at a workforce development center <b>(IA 871-24.2 (96)) Administrative Code</b>
<b>Michigan</b>	Claims for benefits shall be made pursuant to regulations prescribed by the unemployment agency. The unemployment agency shall designate representatives who shall promptly examine claims and make a determination on the facts. <b>(M.C.L.A. 421.32)</b>  An individual shall file a new, additional, or reopened claim or shall report to file a continued claim as directed by the agency. <b>(Mich. Admin. Code R. 421.210 (3))</b>
<b>Minnesota</b>	An application for unemployment benefits may be filed in person, by mail, or by electronic transmission as the unemployment insurance agency may require. <b>(M.S.A. s. 268.07 Statutes Annotated)</b>  The unemployment insurance agency shall notify the claimant of the method that should be used to make ongoing claims for benefits. The first method is through electronic transmission which means the claims may be filed by electronic mail address, telephone number, or Internet address prescribed by the commissioner for that claimant. The other method that the unemployment insurance agency may designate for the claimant is for the claim to be filed by mail. <b>(M.S.A. s. 268.0865 Statutes Annotated)</b>

## Work Search Requirements

<b>Illinois</b>	Unless otherwise instructed, a claimant must establish that he or she is able to work, available for work and actively seeking work during each week for which he or she is claiming benefits. The claimant must show that he or she is conducting a thorough, active and reasonable search for appropriate work on his or her own by keeping records of what he or she is doing to find work. <b>(56 Il. Adm. Code 2865.100)</b>
<b>Indiana</b>	To establish an effort to secure full-time work, a claimant is required to search for three (3) positions in each week for which benefits are claimed. <b>(646 IN 5-9-3 Administrative Code)</b>
<b>Iowa</b>	The Iowa law specifies that an individual must earnestly and actively seek work. This is interpreted to mean that a registration for work at a workforce development center or state employment service office in itself does not meet the requirements of the law. Nor is it interpreted to mean that every individual must make a fixed number of employer contacts each week to establish eligibility. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in claimant characteristics, job prospects in the community, and such other factors as the department deems relevant. <b>(IA 871-24.22 (96) f. Administrative Code)</b>
<b>Michigan</b>	The claimant has registered for work and has continued to report in accordance with unemployment agency rules and is actively engaged in seeking work. Except for a period of disqualification, the requirement that the claimant shall seek work may be waived by the unemployment agency if it finds that suitable work is unavailable both in the locality where the individual resides and in those localities in which the individual has earned wages during or after the base period. an otherwise eligible individual shall not be ineligible for benefits because he or she is participating in training with the approval of the unemployment agency. <b>(M.C.L.A. 421.28)</b>
<b>Minnesota</b>	An applicant may be eligible to receive unemployment benefits for any week if the applicant was actively seeking suitable employment. "Actively seeking suitable employment" means those reasonable, diligent efforts an individual in similar circumstances would make if genuinely interested in obtaining suitable employment under the existing conditions in the labor market area. Limiting the search to positions that are not available or are above the applicant's training, experience, and qualifications is not "actively seeking suitable employment." <b>(M.S.A. s. 268.085 Statutes Annotated)</b>

## Registration for Work Requirements

<b>Illinois</b>	<ul style="list-style-type: none"> <li>A claimant must register with the Illinois Employment Service unless otherwise instructed by the local office. There are ten circumstances in which a claimant will not be required to register with the Illinois Employment Service <b>(56 Il. Adm. Code 2865.100)</b></li> <li>An unemployed individual shall be eligible to receive benefits with respect to any week only if he has registered for work at and thereafter, continues to report at an employment office in accordance with such regulations as may be prescribed. <b>(820 ILCS 405/500 Compiled Statutes)</b></li> </ul>
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<b>Indiana</b>	<ul style="list-style-type: none"> <li>• Registration is required and accomplished through enrollment in the Indiana Career Connect (ICC) Database. <b>(646 IN 5-9-1 Administrative Code)</b></li> <li>• Claimant must register for work within ten (10) days of filing an initial claim for benefits. To enhance the registration, claimants should complete a resume and post online. <b>(646 IN 5-9-1 Administrative Code)</b></li> <li>• An unemployed individual is eligible to receive benefits with respect to any week if the individual has registered for work at an employment office or branch thereof or other agency designated by the commissioner within the time limits that the department adopts by rule. <b>(IC 22-4-14-2 Code)</b></li> </ul>
<b>Iowa</b>	<ul style="list-style-type: none"> <li>• Unemployed persons must report in person to the nearest workforce development center and register for work. <b>(IA 871-24.2 (96) Administrative Code)</b></li> <li>• An unemployed individual is eligible to receive benefits with respect to any week only if the department finds that the individual has registered for work at, and thereafter, continues to report to an employment office in accordance with regulations as the department prescribes. <b>(I.C.A. s. 96.4 Code)</b></li> </ul>
<b>Michigan</b>	<ul style="list-style-type: none"> <li>• A claimant shall register for work as instructed by the agency and fully and accurately supply information as to the claimant's past work experience and training and other personal data as may be necessary to assure that the claimant is considered for referral to any available suitable work. <b>(Mich. Admin. Code R. 421.208)</b></li> <li>• Unemployed workers must register and create a profile on <a href="http://www.mitalenet.org">www.mitalenet.org</a> and report in person to verify their registration to any Michigan Works! Agency Service Center no later than three (3) business days before their first contact to file a claim. Claimants must retain form of verification as proof of registration of work for one year. <b>(Fact sheet #76 Work Registration Needed for Jobless Benefits)</b></li> </ul>
<b>Minnesota</b>	<ul style="list-style-type: none"> <li>• An applicant may be eligible to receive unemployment benefits for any week if the applicant was available for suitable employment. <b>(M.S.A. s. 268.085 Statutes Annotated)</b></li> </ul>

### ***Summary of factual data and analytical methodologies***

The permanent and emergency rules do not depend on any complex analysis of data. Instead, the changes to the rules represent common sense amendments that will assist unemployment insurance claimants to provide additional information to DWD in order that DWD may better assist them in returning to work.

### ***Analysis and supporting document used to determine effect on small business or in preparation of an economic impact analysis***

The permanent and emergency rule will have a positive impact on employers and unemployment insurance claimants.

### *Effect on small business*

The permanent and emergency rules do not have any small business requirements but is expected to benefit all employers, including small business. First, the permanent and emergency rules are projected to result in more unemployment insurance claimants finding employment faster. As a result, unemployed individuals will be collecting unemployment insurance benefits for a shorter duration and there will be fewer charges to employers' unemployment insurance accounts. This will result in employers having to pay lower amounts of unemployment tax. Second, more unemployed individuals will be required to seek employment and those unemployed individuals who already were required to seek employment will likely be assisted better by DWD in applying for appropriate jobs. As a result, there are likely to be more and better job applications for employers to review as more employers seek to hire individuals.


### *Agency contact person*

Questions and comments related to this rule may be directed to:

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Dated this 1st day of October, 2013.

STATE OF WISCONSIN,  
DEPARTMENT OF WORKFORCE  
DEVELOPMENT

By   
Reginald J. Newson, Secretary